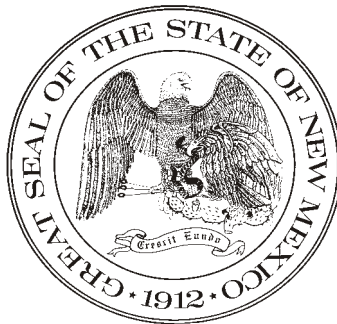


LAND GRANT COMMITTEE

2005 INTERIM
FINAL REPORT
to the
FORTY-SEVENTH LEGISLATURE
SECOND SESSION



New Mexico Legislative Council Service
Santa Fe, New Mexico
March 2006

LEGISLATIVE INTERIM LAND GRANT COMMITTEE HISTORY AND SUMMARY OF COMMITTEE WORK

The land grant committee was originally created by statute for the 2003 interim, but was renewed as a legislative council-created committee in 2004 and 2005.

In its first year, the committee's tasks included studying the existing laws regarding community land grants; developing legislation to improve those laws; and gathering testimony from land grant heirs, state and local agencies and other community groups in New Mexico to better understand and address current problems facing the land grant community.

The committee worked closely with the New Mexico land grant forum and the land grant community throughout the 2003 interim to draft changes to the general statutes under which community land grants are governed. As a result of the hearings, the committee endorsed the introduction and passage of Senate Bill 142, which passed the legislature and was signed into law as Laws 2004, Chapter 124. The act changed provisions regarding management, election procedures and duties, powers and meetings of the boards of trustees of land grants-mercedes and clearly established that land grants-mercedes that are governed in accordance with Chapter 49, Article 1 NMSA 1978 are political subdivisions of the state.

In 2004, the committee followed up on the work it began in the 2003 interim and endorsed several pieces of legislation affecting community land grants-mercedes, which were enacted into law. The secretary of state is required to establish the New Mexico community land grant registry and community land grants operating as political subdivisions of the state are required to register their bylaws and current officers with the secretary of state pursuant to the provisions of Laws 2005, Chapter 205. Community land grant lands now have the right of first refusal to purchase lands that state agencies decide to sell if those lands were formerly part of

that land grant, according to the provisions of Laws 2005, Chapter 251. Laws 2005, Chapter 211 allows certain community land grants to match the highest bid at delinquent tax auctions for property that was formerly part of the original land grant. House Joint Memorial 41 (2005) requested the New Mexico congressional delegation to promote legislation that addresses the loss of community lands by Spanish and Mexican land grants.

In the 2005 interim, the committee held meetings in Santa Fe, Albuquerque, Tierra Amarilla, Abiquiu, Mora and Cubero. Issues that were discussed included the following:

1. the capital outlay process and fiscal management requirements for community land grants that qualify as political subdivisions of the state;
2. the status of the newly created New Mexico community land grant registry;
3. the process whereby a community land grant that is governed by a specific governing statute may change its statutes to reflect the general governing statutes of Chapter 49, Article 1 NMSA 1978;
4. providing a process for community land grants-mercedes governed by the provisions of Chapter 49, Article 2 NMSA 1978 to reorganize under Chapter 49, Article 1 NMSA 1978;
5. creation of a Spanish-Mexican land grant permanent fund and federal legislation implementing recommendations of the GAO report on community land grant claims in New Mexico;
6. the eligibility of community land grants for community development block grants;
7. economic development issues—energy production, water and recreation projects;
8. review of the office of the attorney general's treaty of Guadalupe Hidalgo division;
9. the impact of state wildlife areas on adjacent land grants and how the department of

game and fish determines the number of elk permits allotted to certain landowners;
and

10. state promotion of exports of food crops to Cuba.

The committee had to cancel its October meeting due to the special session of the legislature held in early October, and met in Cubero for its November meeting instead of meeting in Manzano. Total expenditures for voting members were \$18,035 and expenditures for advisory members totaled \$3,260. The committee endorsed five pieces of legislation for the second session of the forty-seventh legislature, which may be found in the final section of this report.

**2005 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
LAND GRANT COMMITTEE**

Members

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Jimmie C. Hall

Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Advisory Members

Rep. Hector H. Balderas
Sen. Carlos R. Cisneros
Rep. Justine Fox-Young
Sen. Phil A. Griego

Sen. Gay G. Kernan
Rep. Ben Lujan
Sen. Gerald Ortiz y Pino
Sen. William E. Sharer

History

The Land Grant Committee was originally created by statute for the 2003 interim and was renewed as a Legislative Council-created committee in 2004 and 2005.

Work Plan

The Land Grant Committee proposes to consider the following issues and topics during the 2005 interim and to develop appropriate legislation for the 2006 legislative session:

1. capital outlay process and fiscal management requirements for community land grants that qualify as political subdivisions of the state;
2. status of the newly created New Mexico community land grant registry;
3. the process whereby a community land grant may convert from a specific governing statute to the general statutes;
4. restoration of inactive community land grants-mercedes;
5. creation of a Spanish-Mexican land grant permanent fund and federal legislation implementing recommendations of the GAO report on community land grant claims in New Mexico;
6. operation of community land grants as corporations;
7. community development block grants for community land grants;
8. economic development issues — energy production, water and recreation projects;
9. review the purpose and mission of the Guadalupe Hidalgo Treaty Division of the Office of the Attorney General; and
10. state promotion of exports of food crops to Cuba.

APPROVED 2005 MEETING SCHEDULE

<u>Date</u>	<u>Location</u>	<u>Members</u>	<u>Advisory</u>
June 2	Santa Fe	\$ 2,229.72	\$1,720.92
July 14-15	Albuquerque	4,229.12	3,749.17
August 4-5	Tierra Amarilla	5,114.45	3,998.41
September 7-8	Mora	4,285.29	3,160.77
October 5-6	Cubero	3,811.44	3,428.07
November 2-3	Manzano	3,742.59	3,263.64
December 1	Santa Fe	<u>2,229.72</u>	<u>1,839.99</u>
TOTAL		\$25,642.33	\$21,160.97

AGENDAS

Revised: June 1, 2005

**TENTATIVE AGENDA
for the
LAND GRANT COMMITTEE**

**June 2, 2005
Room 317, State Capitol**

Thursday, June 2

- 10:00 a.m. **Call to Order**
 —Representative Miguel P. Garcia, Chair
- 10:15 a.m. **Discussion of Work Plan and Itinerary for 2005 Interim**
- 12:30 p.m. **Adjourn**

Revised: July 12, 2005

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
LAND GRANT COMMITTEE**

July 14-15, 2005

**Rio Grande High School, A.B. Chavez Performing Arts Center
2300 Arenal Road SW
Albuquerque**

Thursday, July 14

- 10:00 a.m. **Call to Order and Introductory Remarks**
—Representative Miguel P. Garcia, Chair
—Santos Abeyta, Deacon, Holy Family Parish
—Representative Ernest H. Chavez, District 12
—Teresa Cordova, Bernalillo County Commissioner
—Marcia Fernandez, South Valley Coalition of
 Neighborhood Associations (invited)
- 10:15 a.m. **Historical Background of Atrisco and Tome Land Grants**
—Lawrence Sanchez, Tome Land Grant
—Ramon Herrera, Atrisco Land Grant
- 11:00 a.m. **Operation of a Community Land Grant as a Corporation**
—Ozzie Davis, State Representative (retired) (invited)
—Barbara Page, Chief Executive Officer, Westland Development
 Company, Inc.
- 12:15 p.m. **Lunch**
- 1:30 p.m. **Shareholders and Heirs — Current Concerns**
—James Aranda, Shareholder, Westland Development Company, Inc.
—General Leo Marquez, Rita Gutierrez, Donna M. Montano-Salas
 and Ray Garcia, Tome Land Grant Heirs
- 2:30 p.m. **Land Grants as Political Subdivisions — Appropriations and Capital Outlay
Administration**
—Darlene Mares, Deputy Director, Local Government Division,
 Department of Finance and Administration
—Robert Apodaca, Department of Finance and Administration
—Sam Ojinaga, Local Government Division, Department of Finance
 and Administration

3:30 p.m. **Public Comment**

4:30 p.m. **Recess**

Friday, July 15

9:00 a.m. **Tour of Tome Land Grant**
—Leaving From Rio Grande High School Parking Lot

12:00 noon **Adjourn**

Revised: August 3, 2005

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
LAND GRANT COMMITTEE**

**August 4-5, 2005
County Commission Chambers
Rio Arriba County Complex
Rio Arriba County Main Street
Tierra Amarilla**

Thursday, August 4

- 10:00 a.m. **Call to Order and Approval of Minutes**
 —Representative Miguel P. Garcia, Chair
- 10:15 a.m. **Introductory Remarks and Welcome**
 —Felipe Martinez, Rio Arriba County Commissioner
 —Archie Vigil, Mayor, Chama (invited)
 —Moises Morales, former Rio Arriba County Commissioner (invited)
- 10:30 a.m. **Land Grant Histories and Issues — Santa Cruz de la Canada, Juan
Bautista Valdez, Santo Domingo de Cundiyo and Tierra Amarilla**
 —David Correia, University of Kentucky
 —John Chavez, Santa Cruz de la Canada
 —Bertha Rodriguez, Santo Domingo de Cundiyo
 —Tina Lopez, Santo Domingo de Cundiyo
 —Serafin Valdez, Juan Bautista Valdez
 —Lorenzo Valdez, Juan Bautista Valdez
- 12:30 p.m. **Lunch**
- 2:00 p.m. **Department of Game and Fish Issues — Elk Permits; Big Game**

Permits; Grazing on the Marquez Wildlife Reserve

—James Martinez, Juan Tafoya Land Company

—Department of Game and Fish

—Bruce Thompson, Director

—Jim Karp, General Counsel

—R.J. Kirkpatrick, Chief, Wildlife Management Division

—Brian Gleadle, Chief, Northwest Area Operations

3:00 p.m. **Guadalupe Hidalgo Treaty Division — Office of the Attorney General**

—Alvin Garcia, Office of the Attorney General

3:30 p.m. **Promotion of Agricultural Exports to Cuba**

—Miguel Angel, New Mexico Highlands University (ret.)

—Frank "Skit" Trujillo, Taos

4:00 p.m. **Public Comment**

5:00 p.m. **Recess**

Friday, August 5

9:00 a.m. **Meet in Abiquiu at the library for presentation on and tour of
Abiquiu land grant**

12:00 noon **Adjourn**

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
LAND GRANT COMMITTEE**

**September 7-8, 2005
Mora Independent Schools
School Board Meeting Room
Mora**

Wednesday, September 7

- 10:00 a.m. **Call to Order and Introductory Remarks**
—Representative Miguel P. Garcia, Chair
—Jacob Pacheco, Mora Land Grant Reorganizing Committee
—Antonio Medina, President, New Mexico Acequia Association
—Rosalie Regensberg, Chair, Mora County Commission
—L.T. Quintana, Mayor, Wagon Mound
- 10:15 a.m. **Historical background: Spanish and Mexican Land Grants**
—Georgia Roybal, the Land Grant Forum
- 11:00 a.m. **Mora Land Grant: History, Current Issues, Proposed Solutions**
—Paula Garcia, Mora Land Grant Reorganizing Committee
—Gilbert Quintana, Mora Land Grant Reorganizing Committee
—Juan Archuleta, Mora Land Grant Reorganizing Committee
- 12:15 p.m. **Lunch**
- 1:30 p.m. **Town of Las Trampas Reorganization (invited); Tierra Amarilla Land Grant Association: History and Current Issues**
—Bert Lucero and Filimon Sanchez, Town of Las Trampas (invited)
—Dennis Wells, Chair, Tierra Amarilla Land Grant Association
—Mario Martinez, Vice Chair, Tierra Amarilla Land Grant Association
- 2:30 p.m. **Economic Development Planning and Promotion; Federal Community Development Block Grant Legislation**
—Arturo Archuleta, North Central Economic Development District
—Tito Madrid and Robert Cushing, Office of Representative Heather Wilson

3:30 p.m. **Economic Development Projects in Progress**
—Marcario Griego, Carnue de Carnuel Land Grant
—Jerry Fuentes, Nuestra Senora del Rosario, San Fernando y Santiago
Land Grant
—John Chavez, Santa Cruz Land Grant
—Indo-Hispano Academy of Agricultural Sciences (invited)
—Severiano Cisneros, Anton Chico Land Grant (invited)

4:30 p.m. **Public Comment**

5:00 p.m. **Recess**

Thursday, September 8

9:00 a.m. **Tour of Mora Land Grant**
—Meet at Mora Independent Schools

12:00 noon **Adjourn**

Revised: November 1, 2005

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
LAND GRANT COMMITTEE**

**November 2-3, 2005
Cubero Community Hall
Cubero**

Wednesday, November 2

- | | |
|------------|---|
| 10:00 a.m. | Call to Order and Introductory Remarks
—Representative Miguel P. Garcia, Chair
—Fred Scott, Cibola County Commissioner |
| 10:15 a.m. | Cubero Land Grant — History and Current Projects
—Ben Chavez, Cubero Land Grant |
| 11:15 a.m. | Delinquent Tax Sales of Former Grant Lands
—Tim Eichenberg, Director, Property Tax Division, Taxation
and Revenue Department |
| 12:15 p.m. | Lunch |
| 1:30 p.m. | Land Grant Registry Update
—Ernest Ortega, Office of the Secretary of State (invited) |
| 2:00 p.m. | Statutory Land Grants — Governing Statutes
—Juan Sanchez, Chilili Land Grant
—Ernesto Lujan, Las Vegas Land Grant
—Jerry Fuentes and John Chavez, Nuestra Senora Del Rosario San
Fernando y Santiago Land Grant
—Joe and Angela Herrera, Tecolote Land Grant
—Manzano Land Grant (invited) |
| 3:30 p.m. | Permanent Fund Feasibility and Options |
| 4:15 p.m. | Public Comment |
| 5:00 p.m. | Recess |

Thursday, November 3

- 9:00 a.m. **Tour of Cubero Grant**
- 12:00 noon **Adjourn**

Revised: December 1, 2005

**TENTATIVE AGENDA
for the
SIXTH MEETING
of the
LAND GRANT COMMITTEE**

**December 1, 2005
Room 317, State Capitol
Santa Fe**

Thursday, December 1

- 10:00 a.m. **Call to Order and Introductory Remarks**
 —Representative Miguel P. Garcia, Chair
- 10:15 a.m. **Juan Tafoya Land Corporation Access to Moises Springs**
 —James Martinez, Juan Tafoya Land Corporation
 —James Karp, General Counsel, Department of Game and Fish
- 11:00 a.m. **Department of Game and Fish Rules—Elk Permit Program for Small
Landowners**
 —R.J. Kirkpatrick, Chief, Wildlife Management Division (Invited)
- 11:45 a.m. **Update on New Mexico Trade Alliance**
 —Miguel Angel, President, New Mexico Trade Alliance
 —Joseph Jaramillo and Felix Torres, Indo-Hispano Institute, South Valley
 and Isleta Pueblo (Invited)
- 12:00 noon **Working Lunch**
- 1:15 p.m. **Land Grant Registry Update**
 —Ernest Ortega, Office of the Secretary of State
- 2:00 p.m. **Proposed Legislation**
 —Jon Boller, Legislative Council Service
- 3:00 p.m. **Public Comment**
- 3:30 p.m. **Adjourn**

MINUTES

**MINUTES
of the
FIRST MEETING
of the
LAND GRANT COMMITTEE
June 2, 2005
Santa Fe**

The first meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:20 a.m. in Room 318 of the State Capitol.

Present

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Manuel G. Herrera
Sen. Richard C. Martinez

Absent

Rep. Jimmie C. Hall
Rep. Debbie A. Rodella
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Advisory Members:

Sen. Gerald Ortiz y Pino

Rep. Hector H. Balderas
Sen. Carlos R. Cisneros
Rep. Justine Fox-Young
Sen. Phil A. Griego
Sen. Gay G. Kernan
Rep. Ben Lujan
Sen. William E. Sharer

Staff

Jon Boller
Maha Khoury
Sheila Manzagol

Guests

The guest list is in the meeting file.

Thursday, June 2

Discussion of Work Plan and Itinerary for the 2005 Interim

Representative Garcia suggested that the new members of the committee be briefed on the history of Spanish and Mexican land grants in New Mexico and the Treaty of Guadalupe Hidalgo at some point, possibly at the next meeting of the committee. The committee then discussed the proposed work plan and approved the plan without objection. Committee members also requested that a representative from the governor's office attend the committee's meetings.

Public comments received by the committee concerned the process whereby a community land grant may function as its own fiscal agent when receiving state funds; the establishment of a land grant legal studies program at the university of New Mexico school of

law; and the need to continue the work of the committee to prevent backsliding.

The committee adjourned at 11:45 a.m.

- 2 -

**MINUTES
of the
SECOND MEETING
of the
LAND GRANT COMMITTEE
July 14-15, 2005
Albuquerque**

The second meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. on July 14, 2005 in the A.B. Chavez Performing Art Center at Rio Grande High School in Albuquerque.

Present

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Sen. Rod Adair
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Rep. Debbie A. Rodella

Absent

Sen. Joseph J. Carraro
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Advisory Members

Rep. Hector H. Balderas
Rep. Justine Fox-Young

Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Sen. Gay G. Kernan
Rep. Ben Lujan
Sen. Gerald Otiz y Pino
Sen. William E. Sharer

Staff

Jon Boller
Sheila Manzagol

Guests: A copy of the guest list is in the meeting file.

Thursday, July 14

Santo Abeyata, deacon, Holy Family parish, Teresa Cordova, Bernalillo county commissioner, and Marcia Fernandez, South Valley coalition of neighborhood associations, made opening remarks and welcomed the committee to the area. Representative Garcia reviewed the various pieces of legislation affecting community land grants that were enacted over the past two years.

Historical Background of Tome and Atrisco Land Grants

Lawrence Sanchez, president of the Tome land grant, outlined the history of the Tome

land grant for the committee (written comments are in the meeting file). Mr. Sanchez explained that the Town of Tome land grant was awarded in 1739 by the king of Spain to approximately 24 families that made up the town of Tome. He said that determining the boundaries of the land grant has always been a problem, but that the original land grant can be estimated to be an area encompassing approximately 400,000 to 500,000 acres given the boundaries described in the 1739 document. In 1813, the families living in Casa Colorada petitioned to split the land grant in two, and in 1823, the king of Spain approved the split, leaving the Town of Tome with only 121,594 acres for which a patent was issued in 1856 and confirmed by congress in 1858, according to Mr. Sanchez. However, he noted, the north boundary of the land grant was set six miles south of where the boundary was supposed to be according to a complaint filed with the surveyor general in 1878, and in 1906, President Roosevelt gave the west side of the Manzano mountains to the forest service, land which the land grant members had always used and considered to be part of the land grant, though the surveyor general had not included them on the patent. Moreover, 74,549 acres had to be sold in 1907 to pay taxes, he said, leaving the land grant with only 47,000 acres. That land was sold to Horizon corporation in 1968, a sale, he noted, that most heirs on the list of 286 heirs created in 1955 agree was an illegal sale.

Asked how much land is contained in the parcel given to the forest service, Mr. Sanchez replied that there are at least 36,000 acres of land in that tract. Queried as to what the plan is for the future, since all the common lands are gone, he answered that the land grant members hope to regain some of the land at tax sales, since many of the 90,000 lots created out the common lands are tax delinquent. In addition, the regained wilderness areas of the Manzano Mountain land could be better managed by the land grant than by the forest service.

Ramon Herrera, member of the Atrisco land grant and former president of the Westland development company, incorporated, provided a brief history of the founding of the Atrisco land grant and a copy of a transcript and translation of a certified copy of grants of land at Angostura and Atrisco to Fernando Duran y Chaves in 1692 (copy in the meeting file).

Operation of a Community Land Grant as a Corporation

Ozzie Davis, former state senator, described how the 1967 legislation allowing community land grants to reorganize as corporations came about. He said that his bill did not pass, but that Representative David Norvell's version did get enacted. Mr. Davis allowed that the purpose of the legislation was to protect the common lands of the land grant, rather than to allow alienation of them, and that this came about in part because the board of trustees of the land grant had been showing favoritism in transferring parcels of the common lands to individuals on a piecemeal basis.

Barbara Page, chief executive officer of the Westland Development company, incorporated, introduced the board of the corporation and explained that Westland is the successor to the town of Atrisco, which received a patent in 1905 and which was the successor to the Atrisco land grant. Ms. Page outlined the history of the land grant, beginning with the original 41,553-acre land grant in 1692, continuing through the formation of the corporation in 1967 and ending with current issues of the corporation. She said that the corporation was currently working on a deal to site a TempurPedic factory on ten acres of land. She also expressed concern about the cost of impact fees on west side development, saying that each lot

would cost \$8,000 more under the new system.

Shareholders and Heirs — Current Concerns

James Aranda, an heir to the Atrisco land grant and shareholder of the Westland Development company, incorporated, said that though there are many different perspectives on how Westland should be run, he and others had deep concerns about its survival if there are not profound changes made in the operation of Westland in the near future. He pointed to two areas of particular concern: 1) the liquidation of the common lands to provide income, which he explained is a shortsighted strategy; and 2) mismanagement of the corporation, with the corporation spending \$1.5 million on operating expenses and a disproportionate amount of income on management salaries and bonuses. He recommended that the state audit the corporation and look for signs of malfeasance, insider stock trading, voter fraud and other illegal or unethical practices and stressed that there needed to be more transparency in the running of the corporation (see meeting file for detailed written comments). He also said Westland should lease its land rather than sell it outright.

Jaime Chavez, an heir to the Atrisco land grant, also took issue with the selling of former common lands by Westland, noting that the corporation had sold the Petroglyph land to the federal government for \$9 million. He said that nothing in the articles of incorporation of Westland allows them to alienate the common lands and that the power of the corporation was purposely limited in this way when it was created. He stressed that the land of the Atrisco land grant is to be held in trust for the benefit of the heirs and their successors forever.

Leo Marquez, board member and heir of the Tome land grant, explained that since the New Mexico supreme court had ruled that the Tome Land and Improvement corporation did not exist, he and the other board members were appearing before the committee as representatives of the Tome land grant, which has never been officially dissolved. Mr. Marquez detailed the conclusions of the GAO report (see meeting file for written comments) and urged adoption of two of the options suggested by the report: option four, which recommended that the federal government consider transferring federal lands to land grant communities that did not receive their full acreage; and option five, which provides for payments to compensate for the loss of use of land over the last many decades. He asked that the state work with the federal government to make this happen. In his written comments, Mr. Marquez also requested that the legislature use its power to request the special master overseeing the distribution of funds to heirs of the Tome land grant to account for whom money has been distributed to and exactly how it was determined who is to receive distributions from the fund.

Donna Montano-Salas, board member and heir of the Tome land grant, outlined the history of the Tome land grant with a focus on the court battles over determination of heirship and distribution of proceeds from the sale of the common lands of the grant (see meeting file for written comments). She said that, in 1952, the district court had determined that there were 270 heirs to the grant, but that, in 1979, the New Mexico supreme court decided that that determination was void and invalid and that more than 3,500 individuals were heirs and successors to the grant as of 1983. She said that since then that number has grown to over 6,000. Consequently, there are still questions about who is a rightful heir to the land grant, and the court is unwilling to allow any challenges to its determinations of who gets what at this point.

The committee moved to have staff research the law to see if legislation is necessary to clarify the status of the Tome land grant or to reconstitute the land grant since it currently does not possess any common lands.

Land Grants as Political Subdivisions — Appropriations and Capital Outlay Administration

Sam Ojinaga, Michael Romero and Robert Apodaca, local government division of the department of finance and administration, outlined how the appropriation and capital outlay process works. Mr. Romero explained that the division oversees the finances of 33 counties, 103 municipalities and 110 special districts. He said that the local government division needed a process to identify which land grants qualify as political subdivisions of the state and that the division could be a valuable resource for the land grants that do qualify. Mr. Ojinaga detailed the capital outlay process and noted that entities that receive state funds must follow certain auditing requirements and provisions of the Procurement Code and Open Meetings Act.

Public Comment

Issues discussed in the public comment period were as follows:

- taxation of political subdivisions;
- north central economic development district planning process for land grants
- need for a master plan for Westland Development company, incorporated
- inviting James Martinez from Juan Tafoya land grant to address the committee at its next meeting; and
- addressing the elk permitting process at the next meeting.

Friday, July 15

The committee convened at 9:00 a.m. at Rio Grande High School and Representative Garcia called the meeting to order. The committee voted to send a letter to the Westland Development company, incorporated, expressing its concerns arising from the testimony of Mr. Aranda and Mr. Chavez. The committee then toured the Tome land grant and adjourned its meeting at 2:00 p.m.

**MINUTES
of the
THIRD MEETING
of the
LAND GRANT COMMITTEE
August 4-5, 2005
Tierra Amarilla**

The third meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. on August 4, 2005 in the Rio Arriba county commission chambers in Tierra Amarilla.

Present

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Senator Rod Adair
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Rep. Debbie A. Rodella

Absent

Sen. Joseph J. Carraro
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Advisory Members

Rep. Hector H. Balderas
Rep. Ben Lujan

Sen. Carlos R. Cisneros
Rep. Justine Fox-Young
Sen. Phil A. Griego
Sen. Gerald Ortiz y Pino
Sen. William E. Sharer

Staff

Jon Boller
Sheila Manzagol

Guests: A copy of the guest list is in the meeting file.

Thursday, August 4

Archie Vigil, mayor of Chama, welcomed the committee to Rio Arriba county and said that the village was there to help all of the area, that the village and valley must work together and that it was time to get the land grant back.

Felipe Martinez, Rio Arriba county commissioner, stated that the land grant struggle is still very much alive and that, in the words of Zapata, "respect for another's property is peace". He noted that the Tierra Amarilla land grant is a particularly sad case, with 500,000 acres lost, giving rise to a continuing argument over whether the land should be returned or substitute land be provided or whether compensation should be accepted instead. And while economic development is important to the area, he noted, many of the ills that it is supposed to address are traceable to land loss.

Moises Morales, former Rio Arriba county commissioner, said that though the Treaty of Guadalupe Hidalgo was supposed to protect the land grants, it did not, so that when land was taken away, the ability to develop economically was also taken. He said that the United States government and the forest service in particular are the land grants' worst enemies. He asked the committee to continue to support the land grant community.

Asked if he thought there would be much more economic activity in Tierra Amarilla if more of the county offices were located there, and more of the county's business was conducted there, since it was still the official county seat of Rio Arriba county, Mr. Morales said that he thought so. The chairman asked that the Rio Arriba county manager provide the committee with a detailed explanation of how the county could legally conduct so much of its official business in Espanola when the county seat is actually Tierra Amarilla.

Land Grant Histories and Issues

David Correia, Ph.D. candidate, University of Kentucky, described how the lands of the Tierra Amarilla land grant were in effect stolen through the legal chicanery of T.B. Catron and others, and how the methods developed by Catron were used elsewhere, such as in the Town of Vallecito de Lovato land grant, to essentially privatize or partition what were in reality community land grants. (See meeting file for outline.) In response to the continuing legal questions surrounding how community land grants lost their land and the current status of surviving land grants, the committee voted to promote the establishment of an institute of land grant studies at the University of New Mexico school of law.

John Chavez, Santa Cruz de la Canada land grant, explained how the U.S. supreme court decision in the *Sandoval* case resulted in the Santa Cruz land grant losing all but 4,000 acres of its original 48,000 acres and how the land grant was now attempting to reorganize itself around the 1,000 acres of common lands that remain. He said that one problem facing the land grant is how to determine who qualifies as an heir to the grant. Since the land grant was formed in 1695, he explained, there could be more than 20,000 heirs today by some definitions of "heir". However, he noted, under Spanish law, if a person left a land grant for more than five years, that person would no longer be considered an heir to the land grant. Mr. Chavez asked if the attorney general, or if necessary the legislature, could give some guidance to the land grants on the meaning of "heir" as it relates to community land grants.

Bertha Rodriguez, secretary and former president of the board of trustees of the Santo Domingo de Cundiyo land grant, reported that Cundiyo had governed itself under the bylaws of the land grant for 100 years, but that recently there have been disagreements on the direction of the land grant that have been complicated by legal proceedings. She explained that there had been a 3-2 split on the board of trustees, with the majority claiming that it had the absolute authority to make decisions on how the land grant operated. She suggested that the statutes governing land grants should be amended to include recall election provisions and to distinguish between heirs of the land grant and actual land grant members. (See meeting file for written comments.)

Tina Lopez, former vice president of the board of trustees of the Santo Domingo de

Cundiyo land grant, explained that there had been disagreements about the duties of the board concerning a quiet title suit filed against the land grant when she was in office, and that the majority had decided to defend the land grant in that suit over the objection of the minority. She said that she and other younger members of the land grant disagreed with some of the decisions and policies of the previous boards over the past thirty years, including the capping of membership in the land grant at 44 voting members. Consequently, she agreed with Ms. Rodriguez that there needed to be some clarification of the term "heir" in the statutes, though otherwise she thought the committee had done a wonderful job in revising the statutes. (See meeting file for written comments.)

Committee members encouraged the land grant members to compromise and work to resolve their differences out of court rather than have a judge or the legislature tell both sides what to do, which would be a losing proposition for both sides.

Lorenzo Valdez, president of the Juan Batista Valdez land grant, gave the committee a brief history of the land grant, which he said was confirmed by Spain in 1809. He stated that the borders of the land grant as described in the original land grant documents, which he estimated would have included approximately 200,000 acres. However, the court of private land claims ended up confirming very little of the land grant, confusing Mesita Blanca for Mesa Blanca, which resulted in the grant getting some 1,500 acres of rock instead. He said that the land grant was in a painful period of its history, but hoped that it could resolve its issues soon. Mr. Valdez commented that land grants should be careful what they ask for, since they might get it, which could mean having to follow other laws such as the Open Meetings Act and Open Records Act. He also warned that there is no simple definition of "heir".

Department of Game and Fish Issues

James Martinez and his son Amadeo, both of the Juan Tafoya land grant, reported that they had been having problems with the department of game and fish, which had impounded several head of their cattle that had been found in the Marquez wildlife area, and with access to water in the Marquez wildlife area, which had been restricted. Bruce Thompson, director of game and fish, and Brian Gleadle, chief of northwest area operations, said that the department and the livestock board had impounded cattle in the Marquez wildlife area only after several trespasses had occurred and that the department can arrange for equipment to be taken into the area, but that it had not been requested. James Karp, general counsel for the department, explained that it was necessary to keep cattle out of the Marquez wildlife area because of federal requirements to that effect and that the state risked losing one-third of its budget for the area if it did not keep cattle out. Asked why his cattle were in that area, Mr. Martinez responded that the department had not maintained the fence, which had been knocked down, even though he had asked that they keep the fence up. Asked why the department is not maintaining the fence, Mr. Thompson replied that they were attempting to repair it, but that the Juan Tafoya land corporation had requested \$10,000 for the department to go on Juan Tafoya land to repair the fence. Asked about denying access to water, Mr. Gleadle said that there is a gate that gives them access to every spring and water source they own; however, he said that he thought maybe Mr. Marquez was talking about Moises springs, to which he does not have access because it is not in Marquez canyon where all the water rights owned by Juan Tafoya land grant are located. Mr. Martinez disagreed, saying that Juan Tafoya land grant owns all the water rights in the Marquez

wildlife area. Mr. Thompson invited the committee to visit the area to fully assess the situation. The committee asked Mr. Karp to supply the committee with more information on the water issue.

Mr. Thompson explained how special hunt drawings are conducted, noting that until last year it was a paper process with 145,000 applications for approximately 65,000 permits. Committee members expressed concern about applicants that have never been granted a permit and asked Mr. Thompson to assess which applicants have applied year after year and have not been granted a permit (as distinguished from those that only think they have applied consistently).

R.J. Kirkpatrick, wildlife management chief, outlined the program whereby landowners with elk habitat are given elk hunting licenses to encourage them to maintain the elk population. He said that the department is currently rewriting the rules on the program and attempting to address problems with the current system. Representative Rodella said that she was concerned about the subjectivity of the process and that people needed another opportunity to comment on the rule changes before they are issued. The committee voted to send a letter to the department, asking it to check on property ownership and to engage in a second round of hearings before it adopts new rules on the elk program.

Guadalupe Hidalgo Treaty Division

Alvin Garcia, office of the attorney general, described the Guadalupe Hidalgo treaty division, noting that it had gotten a one-time appropriation upon its creation and that the attorney general's office had contracted with David Benavides to draft a response to the GAO study with that money. He said that there were not a lot of resources available to continue the work of the division. Asked about additional services that could be provided to land grants, he replied that although his office gets many questions from land grants that are political subdivisions, the attorney general does not provide legal services to most political subdivisions of the state; instead, cities and counties and other subdivisions normally hire their own attorneys. Mr. Garcia offered that his office was considering doing training on the Open Meetings Act and public records laws for land grants. The committee voted to send letters to the attorney general and the governor requesting that the division be fully funded as part of the office's base budget and that the questions on heirship brought up by John Chavez and others be examined.

Promotion of Agricultural Exports to Cuba

Miguel Angel, professor of Latin American studies (retired), New Mexico Highlands university, urged the committee to support efforts to promote export of organic products produced in New Mexico to Cuba. He said that there were many advantages to organic products, for which there is skyrocketing demand, including cleaner water and environment, job creation in depressed areas and increased income and opportunities in rural New Mexico. He explained that 35 states are currently doing business with Cuba on a cash basis, with \$1.2 billion in commodities purchased in the last four years. Mr. Angel noted that he had met with Miley Gonzales, director of agriculture, and that the department had offered to provide technical assistance to help promote the project.

Public Comment

Public comment included the following questions and comments:

- attorney general participation and assistance is important in resolving issues such as the Anton Chico land grant situation, where its capital outlay has yet to be distributed to the land grant due to a misunderstanding of the new status of certain land grants as political subdivisions of the state;
- establishment of a university of New Mexico land grant institute is supported by the land grant forum, as well as by Representative Tom Udall;
- why does Abiquiu land grant get 50 elk licenses a year when other land grants only get three or four?
- the New Mexico organic commodity commission is great — Questa farmers now have their own flour mill, and you can certify an area for \$150 and get \$900 an acre for organic wheat and \$3.50 a bale for straw;
- once established, organic farming can save farming in New Mexico and in the United States, whereas Archer Daniels Midland will only end up destroying agriculture;
- a request by Dennis Wells to have the Tierra Amarilla association put on the next agenda;
- a request that the office of the attorney general finish its response to and report on the GAO study;
- the need for land grants to keep organizing;
- the fact that 70,000 acres of the Tierra Amarilla land grant was taken by the government and no compensation has been paid to the rightful owners; and
- that the testimony today has created hope where none has existed for years.

There being no further comment, the committee recessed at 6:40 p.m.

Friday, August 5

The committee reconvened at 9:00 a.m. at the library in Abiquiu. Delvin Garcia, Abiquiu land grant, gave a brief history of the land grant. Three Abiquiu students gave a detailed history of the land grant and then Mr. Garcia took the committee on a tour of the land grant. The committee adjourned at 3:00 p.m.

**MINUTES
of the
FOURTH MEETING
of the
LAND GRANT COMMITTEE**

**September 7-8, 2005
Mora**

The fourth meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, on September 7, 2005 at 10:15 a.m. in the school board meeting room of the Mora independent schools.

Present

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Sen. Rod Adair
Rep. Justine Fox-Young
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Rep. Debbie A. Rodella

Absent

Sen. Joseph J. Carraro
Sen. Gerald Ortiz y Pino

Advisory Members

Rep. Hector H. Balderas
Rep. Ben Lujan

Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Sen. William E. Sharer
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Staff

Jon Boller
Sheila Manzagol

Guests

A copy of the guest list is in the meeting file.

Wednesday, September 7

Jacobo Pacheco, Mora land grant reorganizing committee, welcomed the committee to Mora and noted that this is the first time a legislative committee has met in Mora. He said that it is crucial to reconstitute the grant to prevent further loss of land in the area and preserve the area's culture and history. Antonio Medina, president of the New Mexico acequia association, welcomed the committee and described the cultural and spiritual roots of the community of Mora. Rosalie Regensberg, chair of the Mora county commission, welcomed the committee to Mora, as did Michael Lavato, Mora county commissioner, who applauded the efforts of all the people who have kept land grant issues alive over the years.

Mora Land Grant: History, Current Issues, Proposed Solutions

Paula Garcia, Gilbert Quintana and Juan Archuleta, of the Mora land grant reorganizing committee, outlined the history of la merced de Santa Gertrudis de lo de Mora and its current reorganizing efforts (see meeting file for full presentation, proposed bylaws and recommendations).

Ms. Garcia explained that the grant was officially established in 1835, confirmed by congress in 1860 and issued a patent for 827,621 acres in the name of the 76 original grantees, their heirs and assigns in 1876. The grant was partitioned in 1915-16, with approximately 350,000 acres of unallocated common land being auctioned off at that time, according to Ms. Garcia. Today, she said, perhaps only about 200 acres of the common lands remain. Ms. Garcia presented several suggestions on how the state could help land grants in the state, including establishing a university chair for the study of land grants, supporting local language and history programs, fully funding the Guadalupe Hidalgo treaty division in the office of the attorney general, assisting with genealogy and land title research programs, training in local governance and public administration and providing seed money for reconstitution of land grant common lands.

Mr. Quintana said there are several obstacles to reorganizing the grant. Because the town of Mora was leveled in 1847, many documents were destroyed. Also, he said, birth and death certificates were not required until after 1912, so tracing heirship is difficult. Mr. Quintana stressed that the people of Mora are Indo-Hispanic, and that he would like to see instruction in not only English and Spanish, but also other local languages, such as the Apache language. He said that the grant needs to collaborate with the bureau of land management and forest service for the use or return of former grant lands.

Mr. Archuleta explained how most of the young people are leaving the grant, and how this is a worrisome trend. He said that Indo-Hispanos must claim and teach their heritage, and teach Spanish and not just Castilian Spanish. The stories must be taught in school, he said, and historical morals and values remembered.

Historical Background: Spanish and Mexican Land Grants

Georgia Roybal, the land grant forum, presented an audio-visual history of Spanish and Mexican land grants of New Mexico to the committee. The committee had asked Ms. Roybal for a general overview of the subject at an earlier meeting so that new members could become better acquainted with some of the long-standing issues still facing the land grant community today.

Town of Las Trampas Reorganization; Tierra Amarilla Land Grant Association

Filimon Sanchez and Bert Lucero, Las Trampas land grant association board of trustees, gave an account of their efforts at reorganizing the Las Trampas grant, also known as the Santo Tomas Apostol del Rio de Las Trampas community land grant. Mr. Sanchez explained that he has been on the board of trustees for 25 years, and that the board has been working for many years on various challenges, including the task of identifying heirs to the grant, getting members to participate in the management of the grant and dealing with the forest service and its management of the approximately 21,000 acres of forest lands that were once part of the common lands of the land grant. He said that the board of trustees has been especially concerned

about the forest service's thinning program, which tends to be excessive, but he thinks it is beginning to take into consideration the necessity of maintaining a healthy watershed and is becoming more flexible in its approach.

Mr. Lucero briefly outlined the grant's history, noting that the original grant of 58,000 acres was formed in 1751, with 28,000 acres confirmed by congress in 1860 and patented in 1913 by President Roosevelt. Currently, 21,000 acres are in Carson national forest and the remaining 7,000 acres have yet to be inventoried. He said that year after year, outsiders are filing quiet title suits and claiming much of the remaining property. Mr. Lucero explained that the land grant association initiated a process to create a local town government in 2002, and that in July 2003 it had adopted a charter and bylaws for the town (a copy is in the meeting file). He asked that the legislature look at the adverse possession statutes and put a moratorium on adverse possession within the grant for the time being. He also encouraged the committee to consider creating a state land grant fund to help community land grants recover lands within the boundaries of their grants.

Dennis Wells and Mario Martinez, Tierra Amarilla land grant association, reviewed the history of the Tierra Amarilla land grant. Mr. Martinez explained that his great-great-grandfather had applied to Spain for a grant, but had been denied because of the transition to Mexican rule. He reapplied to Mexico, but was denied because he had applied for a private grant. In response, he applied for a community grant, which he did receive. Accordingly, Mr. Martinez explained, the Tierra Amarilla grant was never a private grant, and was not referred to as such in the patent to the grant. Mr. Catron bought claims to the ejidos, but left people alone until they died or were fenced off. He also noted that though Mr. Catron claimed to have purchased land from Francisco Martinez, the purchase occurred 12 years after Francisco died, which was impossible, and Francisco signed with an "X" instead of his signature. In other words, Mr. Martinez said, Francisco did not sign those deeds over to Mr. Catron. He said that the land grant association wants the land back and that everyone living within the grant, even newcomers, is welcome to participate.

Economic Development Planning and Promotion; Federal Community Development Block Grant Legislation

Arturo Archuleta, director of planning for the north central economic development district, said that the legislature had appropriated \$250,000 for comprehensive planning and technical assistance, and that he is still waiting for approval of the contract to provide these services from the energy, minerals and natural resources department, to which the appropriation had been made. Mr. Archuleta then outlined the program, which will include statewide training, regional training, individual capacity building, comprehensive economic development planning, housing strategic planning and individual capital outlay plans (ICOP) (see meeting file for program outline). He said there is also still some difficulty in getting government agencies to work with land grants because of confusion over which land grants are political subdivisions of the state. The committee requested that the governor be asked to notify state agencies of the status of these land grants.

Tito Madrid from Representative Heather Wilson's office informed the committee that the New Mexico congressional delegation is working together to support legislation to allow land grants to compete for community development block grants if they are recognized as

political subdivisions of the state. The committee asked staff to send letters of support to the congressional delegation as soon as the legislation is introduced.

Economic Development Projects in Progress

Mario Gonzales, Carnue de Carnuel land grant, said that the grant receives approximately \$150,000 in revenue annually, most of which comes from billboard leases and cell tower leases. He said the grant pays high property taxes because it is so close to Albuquerque and thus needs a steady source of income. The grant would like to repurchase private tracts of land in the area to provide for affordable housing and establish a trust fund in the grant to purchase those lands in the next 20 years or so. Currently, he said, the grant has plans for a small business incubator and a small commercial development, along with construction of offices for the acequia association, the mutual domestic water consumers association and the land grant association. Mr. Gonzales said the grant is also looking at creating 40,000 square feet of commercial space along the lines of a small town main street project.

Jerry Fuentes, Nuestra Senora del Rosario, San Fernando y Santiago land grant, presented the land grant's master plan to the committee (a copy is in the meeting file). He said that formal zoning, declaration of roads, eco-tourism and sorting out water rights are all being considered as first steps in the process. Also planned are sewage facilities, a housing project, a model market for local goods and a cemetery for Chimayo. Mr. Fuentes thanked the committee for sponsoring a memorial last year, which really helped the land grant in its negotiations with the department of transportation on the road project that runs through the grant.

John Chavez, interim president of the Santa Cruz land grant, described how 2.5 years of work culminated in the reorganization of the grant and briefly explained the grant's new bylaws. He said that the grant's ICOP included a community and administrative center, which will probably be built in Chimayo in partnership with Rio Arriba county. In addition, he said that the grant is planning an economic development center, with offices for the post office, the mutual domestic water consumer association and the acequia association, along with a community marketplace to sell local crafts and crops. A housing master plan, including an affordable housing development, and resource development plan for the common lands is also in the works, he said.

The committee requested that the property tax division be invited to the next meeting to address questions on how the change in the law on delinquent property tax sales is being implemented. The committee also asked that land grants with specific governing statutes be invited to the next meeting to advise the committee on whether or not they would like to repeal their statutes and come under Chapter 49, Article 1 NMSA 1978.

The meeting recessed at 6:00 p.m.

Thursday, September 8

The committee convened at 9:00 a.m. for a tour of the Mora land grant. The committee adjourned at 1:00 p.m. at the conclusion of the tour.

**MINUTES
of the
FIFTH MEETING
of the
LAND GRANT COMMITTEE
November 2-3, 2005
Cubero**

The fifth meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. on November 2, 2005 in the Cubero community hall.

Present

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Sen. Rod Adair
Rep. Justine Fox-Young (11/2)
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino (11/2)
Rep. Debbie A. Rodella

Absent

Sen. Joseph J. Carraro

Advisory Members

Sen. William E. Sharer
Rep. Eric A. Youngberg

Rep. Hector H. Balderas
Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. Leonard Tsosie

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Jon Boller
Sheila Manzagol

Guests

A copy of the guest list is in the meeting file.

Wednesday, November 2

Cubero Land Grant—History and Current Projects

Ben Chavez and Frank Chavez, president and vice president, respectively, of the Cubero land grant, welcomed the committee to Cubero. Ben Chavez gave a brief history of the land grant, noting it was granted to Juan Chavez and 60 others in 1833 by the Mexican government, and patented in 1896 by the United States. He noted that of the original grant of 16,400 acres, the land grant still holds between 12,000 and 13,000 acres. He said that, in 1912, a school was established on the land grant, and that years ago the grant had deeded some 30 acres to the

school, but that 24 of those acres had reverted to the grant this year because they were not being used by the school. The land grant has applied for a \$500,000 community development block grant and submitted a \$500,000 individual capital infrastructure plan to fund a sewer system for the grant, he said, since everyone, individually, currently possesses a well and septic tank, which has raised concerns about contamination. The land grant is currently negotiating with the Pueblo of Acoma and the New Mexico department of transportation over expanding exit 102 of interstate 40, which will further intrude on the land grant's property, he explained. Frank Chavez questioned whether the pueblo's casino, which is on the south side of the interstate and sits on land that was formerly part of the grant, is on land contiguous to the pueblo's, and whether it was legally put into trust status before the casino opened. The committee asked staff to find out if the casino was placed on non-contiguous land and if proper procedures were followed in putting that land in trust for the pueblo. The committee also asked that a letter be sent to the department of transportation urging it to work with the Cubero land grant on the interchange issue.

Delinquent Tax Sales of Former Grant Lands

Tim Eichenberg, property tax division director, taxation and revenue department, said that the division might need some clarification on how to administer the changes made last session to Section 19-7-56 NMSA 1978 by House Bill 332. For example, if a piece of property is legally sold by the board of trustees, should that parcel be subject to new requirements, he asked. Is the purpose of the change to prevent erosion of the property base of land grants, or is it to rebuild that base? He said that the division handles about 70,000 to 80,000 parcels of land per year, and that the division does not have the staffing to research all titles back to pre-statehood. Also, he noted that some land is double- or triple-assessed since many land grants pay taxes on all or most property within their borders, while individuals often do so on plots within the grants. He said that the division is holding up on sales of some properties until it is clear whether a particular land grant needs to be notified of the sale. The committee asked that he come back in December with any changes he thinks would help clarify the law.

Land Grant Registry Update

Mr. Ortega was unable to attend the meeting and will be present at the December meeting.

Statutory Land Grants—Governing Statutes

Juan Sanchez, Chilili land grant, explained that Chilili, in 1876, was one of the first land grants to have statutes enacted that were specific to one grant, and that these provisions comprise the whole of Chapter 49, Article 4 NMSA 1978. He asked that the general statutes governing land grants be amended to allow land grants that have specific statutes to amend their statutes to conform with the general provisions instead of repealing their specific statutes outright. He said that he has no problem with the general statutes other than the provisions in Section 49-1-4 NMSA 1978 that require board members to be from different precincts if the land grant encompasses more than one precinct, since precinct boundaries do not necessarily coincide with grant boundaries, and do not necessarily contain equal populations. He suggested that those provisions be amended to allow land grants to district their territory via their bylaws.

Joe and Angela Herrera, Tecolote land grant, explained that only 4,000 acres of the original grant of 48,000 acres remains, and much of that is in private hands that are not members of the grant. Moreover, they said, the land grant was recently challenged by some heirs to the grant who say they have a superior claim to the grant. They said they are also concerned about provisions in their statutes (Article 10 of Chapter 49 NMSA 1978) that allow non-heirs to the grant to vote and be elected to the board of trustees of the grant.

Jerry Fuentes and John Chavez, Nuestra Senora del Rosario, San Fernando y Santiago land grant, said they would also like to amend their statutes to conform with the general provisions of Chapter 49, Article 1 NMSA 1978. However, they noted their concern that the provisions on who qualifies as an heir and member of the grant are currently broader than the definition in the general provisions; accordingly, conforming their statutes to the general provisions would have to entail grandfathering in all those who qualified as members of the grant before the changes are made. They asked that the committee allow them to work with staff to draft legislation for the 2007 session before their April board meeting so that their members could vote on the proposed changes to their governing statutes.

Ernesto Lujan, Las Vegas land grant, explained how the Las Vegas grant is currently run, and how the board of trustees does not want to change its statutes at this time due to ongoing litigation and negotiations with the city of Las Vegas over a landfill. Because the district court has ongoing jurisdiction concerning the running of the grant, he said, it would not be advantageous to the grant to give that up at this point, though he thought that the issue should be revisited once the landfill closure and restoration are completed.

Representatives of the Manzano land grant did not attend the meeting.

The committee asked staff to work with those land grants that wanted to come under the general statutes and prepare legislation to that end for the 2007 legislative session.

Permanent Fund Feasibility and Options

At a previous meeting, the committee asked if a special permanent fund for land grants could be funded with property taxes that have been paid by land grants on their common lands. Committee staff member Jon Boller summarized his findings as follows:

- land grants are not excepted from property taxes in the constitution, so they cannot be exempted from county, city, school and other property tax levies without amending the constitution;
- counties administer and collect property taxes for the county, city and schools along with any special voter-approved taxes;
- it would require a special law to direct specific counties, and not others, to contribute to a fund for the benefit of land grants (and special laws may not be enacted in this instance), but the state may impose a statewide property tax on property that is not taxed at the maximum mill rate;
- there is a 20 mill limit in the constitution, i.e., the maximum mill levy that the state can authorize to be levied on property without explicit voter approval (generally speaking);
- currently, counties can impose 11.85 mills, schools .50 mills and cities 7.65 mills, which

- totals 20 mills in cities, but only 12.35 mills in the remainder of the county;
- the state could conceivably impose a state property tax of a certain mill levy (up to 7.65 mills) on all property in the remainder of the county and distribute the revenue to a permanent fund for land grants that are political subdivisions of the state;
 - the amount that would be collected would depend on the mill rate, and would not be directly related to the taxes paid on common lands, though one might estimate what mill levy would generate an amount roughly equal to the taxes paid on the common land and impose that rate; and
 - such a tax would have to be levied statewide, not on a county-by-county basis.

In short, Mr. Boller concluded that financing a permanent fund through the use of property taxes is possible, but it could not be done by diverting county tax revenue attributable to the taxes levied on the common lands of land grants. The committee decided that another form of financing might be more appropriate. The land grant forum submitted its land grant trust fund management concept, which outlines how a trust fund might be managed.

The committee recessed at 4:45 p.m.

Thursday, November 3

The committee convened at 9:00 a.m. at the Cubero community hall for a tour of the grant. At the conclusion of the tour, the committee adjourned.

**MINUTES
of the
SIXTH MEETING
of the
LAND GRANT COMMITTEE
December 1, 2005
Santa Fe**

The sixth meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:40 a.m. on December 1, 2005 in room 317 of the State Capitol.

Present

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Sen. Rod Adair
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Rep. Debbie A. Rodella

Absent

Sen. Joseph J. Carraro
Rep. Justine Fox-Young
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino

Advisory Members:

Rep. Hector H. Balderas

Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. William E. Sharer
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Staff

Jon Boller
Jeret Fleetwood

Guests: A copy of the guest list is in the meeting file.

Thursday, December 1

The chair reported that the dean of the law school had responded to the committee's letter and that he would meet with her in the near future. He also note that the Abiquiu livestock association had voted to dissolve itself and reorganize under Chapter 49, Article 1 NMSA 1978.

Ruth Armijo, president of the Juan Tafoya land grant, asked for help in regaining access to Moises springs and Estaliando springs in the Marquez wildlife area. James Martinez said that he had not had access to the springs for nine months, and that when the department of game and fish was working in the area, a bulldozer had diverted water to an arroyo and away from the reservoir. He asked that the locks on the gates be removed so that the land grant members could have access to the springs. He also said that access to the springs was important for religious ceremonies.

Jim Karp, general counsel for the department of game and fish, said that the department has not denied access to the springs in Marquez canyon and that today was the first time he had heard about the bulldozer. He said he would look into the problem. Asked about religious access to the springs outside of Marquez canyon, he said that the department had worked with pueblos for access to religious sites during certain periods in Pecos canyon in the past, and that if Mr. Martinez would send the department a letter making a request for religious access, the department could respond. Representative Hall suggested that the committee endorse a memorial asking the department to report on the income, expenses and benefits related to its wildlife areas, why the Marquez area was critical to the department's mission and who benefits from the area. Committee members also asked whether the department would request that the federal government allow grazing in the Marquez wildlife area.

R.J. Kirkpatrick updated the committee on the elk permit program for small landowners. It was suggested that he meet with Jerry Fuentes from Truchas to discuss how the program would affect the land grants in the Truchas region.

Ernest Ortega, office of the secretary of state, reported on the land grant registry, noting that nineteen community land grants had registered with the office so far.

Miguel Angel, president of the New Mexico agricultural trade alliance, and Dale Petty, a farmer from Curry county and lobbyist for the farmer's union, reported that they had acquired a license to export agricultural products to Cuba from New Mexico. They said that thirty-eight states were already doing business with Cuba, and that Texas alone had sold four million dollars worth of wheat to Cuba last year.

Joseph Jaramillo and Veronica Laguna of the Indio-Hispano academy of agricultural arts and sciences reported on the academy's food packaging program and its youth conservation corps program. The academy works in partnership with the South Valley and Isleta Pueblo to market native foods, including red chili powder, blue corn meal, roasted corn and pinto beans. Its youth program has worked with three hundred youths so far in agricultural projects and a program to restore the bosque.

The committee endorsed the following legislation and actions for the 2006 session:

- a bill to require the attorney general to report annually on the activities of the Guadalupe-Hidalgo treaty division;
- a bill to provide a process for land grants organized under Chapter 49, Article 2 NMSA 1978 to reorganize under Chapter 49, Article 1 NMSA 1978;
- an appropriation to continue funding of the education, technical training and economic development projects for land grants begun last year;
- a memorial asking for a report on wildlife areas from the department of game and fish;
- individual letters to the state's congressional delegation asking for a response to HJM 41 from the first session of the forty-seventh legislature; and
- an appropriation to continue researching title to state-owned property located within former common lands of community land grants.

There being no further business, the meeting adjourned at 4:30 p.m.

- 3 -

ENDORSED LEGISLATION

HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR COMPREHENSIVE PLANNING FOR
COMMUNITY LAND GRANTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Three hundred thousand dollars
(\$300,000) is appropriated from the general fund to the
department of finance and administration for expenditure in
fiscal year 2007 for a distribution of two hundred thousand
dollars (\$200,000) to the north central New Mexico economic
development district and one hundred thousand dollars
(\$100,000) to the northwest New Mexico council of governments
to provide technical assistance to community land grants for
comprehensive planning, including economic development,
housing, land use, infrastructure and grant administration and
training to operate as political subdivisions of the state.

.160018.1

underscored material = new
[~~bracketed material~~] = delete

1 Any unexpended or unencumbered balance remaining at the end of
2 fiscal year 2007 shall revert to the general fund.

3 - 2 -
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

.160018.1

underscored material = new
[bracketed material] = delete

HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE STATE COMMISSION OF PUBLIC
RECORDS TO CONTINUE THE SURVEY OF AND TO RESEARCH THE TITLE OF
STATE-OWNED PROPERTY LOCATED WITHIN FORMER COMMON LANDS OF
COMMUNITY LAND GRANTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Thirty-five thousand dollars
(\$35,000) is appropriated from the general fund to the state
commission of public records for expenditure in fiscal years
2006 and 2007 to perform and contract for the services
necessary to continue the survey begun in compliance with
Senate Joint Memorial 10 of the first session of the
forty-sixth legislature of state-owned property located within
former common lands of community land grants, to continue
research on the chain of title of those properties and to

.159363.2

underscored material = new
~~[bracketed material] = delete~~

1 provide the legislature with an estimate of the cost of
2 completing the survey and research. Any unexpended or
3 unencumbered balance remaining at the end of fiscal year 2007
4 shall revert to the general fund.

5 - 2 -
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

.159363.2

underscored material = new
[bracketed material] = delete

HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; ALLOWING LAND GRANT CORPORATIONS
ORGANIZED UNDER LAWS 1891, CHAPTER 86 TO REORGANIZE UNDER
CHAPTER 49, ARTICLE 1 NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 49, Article 2 NMSA
1978 is enacted to read:

"[NEW MATERIAL] CONVERSION OF LAND GRANT CORPORATIONS
ORGANIZED UNDER LAWS 1891, CHAPTER 86, INTO LAND GRANTS-
MERCEDES GOVERNED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER
49, ARTICLE 1 NMSA 1978.--Twenty or more owners and proprietors
of record of a land grant corporation organized under Laws
1891, Chapter 86 may prepare proposed bylaws and a plan of
conversion for the purpose of converting the existing land
grant corporation into a land grant-merced organized and

.159358.1

1 governed under the general provisions of Chapter 49, Article 1
2 NMSA 1978. Upon notice, the proposers shall call a meeting of
3 all owners and proprietors of record entitled to vote in the
4 affairs of the existing corporation. The notice shall be
5 published in English in a newspaper of general circulation in a
6 county in which the existing corporation is located, once a
7 week for three consecutive weeks, the last publication to be
8 not more than thirty days prior to the date set for the
9 meeting. Similar publication shall also be made in Spanish if
10 there is a Spanish language newspaper of general circulation in
11 the county. The proposed bylaws and the plan of conversion
12 shall be presented at the meeting and, if approved by a vote of
13 the majority of the owners and proprietors of record present at
14 the meeting then, upon the filing of the bylaws with the
15 secretary of state, the corporation organized under Laws 1891,
16 Chapter 86 is converted into a land grant-merced and shall be
17 governed by the general provisions of Chapter 49, Article 1
18 NMSA 1978."

SENATE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; AMENDING REPORTING REQUIREMENTS OF THE
GUADALUPE HIDALGO TREATY DIVISION OF THE OFFICE OF THE ATTORNEY
GENERAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 8-5-18 NMSA 1978 (being Laws 2003,
Chapter 101, Section 1) is amended to read:

"8-5-18. GUADALUPE HIDALGO TREATY DIVISION.--

A. The "Guadalupe Hidalgo treaty division" is
created within the office of the attorney general. The
division shall review, oversee and address concerns relating to
the provisions of the Treaty of Guadalupe Hidalgo that have not
been implemented or observed in the spirit of Article 2,
Section 5 of the constitution of New Mexico and Section 47-1-25
NMSA 1978.

.159356.1

1 B. The division shall consist of such personnel and
2 have such duties as the attorney general shall designate.

3 C. The attorney general shall report the findings
4 and recommendations of the division to the [~~second session of~~
5 ~~the forty-sixth~~] legislature annually."

6 - 2 -

underscored material = new
[bracketed material] = delete

HOUSE JOINT MEMORIAL

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

FOR THE LAND GRANT COMMITTEE

A JOINT MEMORIAL

REQUESTING THE DEPARTMENT OF GAME AND FISH TO REPORT ON THE
ECONOMIC IMPACT ATTRIBUTABLE TO WILDLIFE AREAS AND THE IMPACT
ON LOCAL ECONOMIES AND COMMUNITY LAND GRANTS ADJACENT TO
WILDLIFE AREAS.

WHEREAS, the department of game and fish manages and
controls several wildlife areas throughout the state; and

WHEREAS, these wildlife areas are often located in
economically depressed rural areas of the state; and

WHEREAS, these rural areas may not always benefit from
their proximity to wildlife areas; and

WHEREAS, the viability of these areas should be enhanced
with proper management of these state resources; and

WHEREAS, elk and other wildlife living in wildlife areas
often migrate to adjacent lands, which may result in economic

1 damage to adjacent landowners; and

2 WHEREAS, it is unknown what economic benefits individuals
3 owning lands adjacent to wildlife areas gain from the sale of
4 elk and other wildlife permits granted to them by the
5 department of game and fish; and

6 WHEREAS, it is ambiguous as to what revenues and expenses
7 are attributable to wildlife areas, or what the costs and
8 benefits are to the areas and community land grants that are
9 adjacent to wildlife areas;

10 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
11 STATE OF NEW MEXICO that the department of game and fish be
12 requested to report to the first session of the forty-eighth
13 legislature on the income and expenses attributable to each
14 wildlife area, the impact on local economies and community land
15 grants in each area adjacent to a wildlife area and the number
16 of elk permits distributed to individuals owning land adjacent
17 to each wildlife area; and

18 BE IT FURTHER RESOLVED that a copy of this memorial be
19 transmitted to the department of game and fish.

20 - 2 -
21
22
23
24
25